

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35760]

Hainesport Industrial Railroad, LLC—Corporate Family Transaction Exemption

Hainesport Industrial Railroad, LLC (Hainesport), a Class III railroad, filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for a corporate family transaction pursuant to which Hainesport will transfer ownership and operation of a line of railroad in Hainesport, N.J., to a corporate affiliate.

According to Hainesport, it currently owns and operates a series of tracks serving several customers located in the Hainesport Industrial Park in Hainesport, N.J., where it connects with a line owned and served by Consolidated Rail Corporation (Conrail).¹ Hainesport states that several sidings point in an easterly direction (East Line) and one or more sidings point in a southerly direction (South Line). Hainesport proposes to establish a new corporate affiliate, Hainesport Secondary Railroad, LLC (Hainesport Secondary), to own and operate the East Line. Hainesport will continue to own and operate the South Line. Hainesport states that it will enter into a haulage agreement with Hainesport Secondary that provides for Hainesport Secondary to move traffic between the South Line and the Conrail interchange on behalf of Hainesport.

¹ See Hainesport Indus. R.R.—Acquis. & Operation Exemption—Hainesport Indus. Park R.R., FD 34695 (STB served May 18, 2005).

Unless stayed, the exemption will be effective on September 25, 2013 (30 days after the verified notice was filed). Applicant states that the parties intend to consummate the proposed transaction on or about September 26, 2013.

According to Hainesport, the purpose of this transaction is to allow Hainesport to separate the lines of railroad according to the types of traffic each handles. In addition, Hainesport states that the transaction will facilitate the sale of the South Line should Hainesport's owners choose to sell that line in the future.

The line transfer is a transaction within a corporate family exempted from prior review and approval under 49 C.F.R. § 1180.2(d)(3). Applicant states that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 18, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35760, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on applicant's representative, John D. Heffner, Strasburger & Price, LLP, 1700 K Street, N.W., Suite 640, Washington, DC 20006.

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Decided: September 6, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.